

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15634 of Mary E. Stansel, as amended, pursuant to 11 DCMR 3107.2, for a variance from the lot occupancy requirements (Subsection 403.2), for a detached accessory garage for a single-family dwelling in an R-4 District at premises 514 G Street, N.E. (Square 833, Lot 29).

HEARING DATE: March 11, 1992
DECISION DATE: April 8, and May 6, 1992

DISPOSITION: The Board GRANTED the application by a vote of 4-0 (Angel F. Clarens, Paula L. Jewell and Carrie L. Thornhill to grant; Sheri M. Pruitt to grant by proxy; Maybelle Taylor Bennett not present, not voting).

FINAL DATE OF ORDER: November 18, 1992

RECONSIDERATION ORDER

The Board granted the application by its order dated November 18, 1992, subject to the condition that construction be in accordance with the revised plans marked as Exhibit No. 36A of the record. By letter dated November 20, 1992, a party in opposition submitted a timely motion for reconsideration of the Board's decision or for rehearing of the case.

In support of the motion for reconsideration, the oppositions argued that the Board's decision was in error, as follows:

- a. The Board's order incorrectly identifies the person testifying in opposition as residing at 501 G Street, N.E. when, in fact, the person resided immediately adjacent to the subject property at 516 G Street, N.E.
- b. The Board's order failed to indicate that the person testifying in opposition was testifying on behalf of all five of the owners of the contiguous row of dwellings at 510, 512, 516, 518, and 520 G Street, N.E.
- c. The Board's order failed to mention the expert evidence submitted in support of the opposition's position that the proposed garage would cause detrimental effects on the light and air flow to neighboring properties as well as potential damage to adjacent and nearby heating and cooling systems.

- d. The Board's order failed to address the opposition's response to the revised plans which suggested that recessing the proposed garage to reduce the height of the structure so as not to protrude above the adjacent fence would be acceptable to the property owners represented by the opposition.

In support of the motion for rehearing, the opposition asserted that new evidence refuting or reversing the support of the owners of 512 and 501 G Street, N.E. could be presented. However, no direct evidence in support of the opposition's assertion was submitted with the motion.

There was no response to the motion for reconsideration or for rehearing.

Upon consideration of the motion, the record in the case, and its final order, the Board finds as follows:

- a. Although the Board's order incorrectly identifies the address of the witness in opposition as 501 G Street, rather than 516 G Street, the issues and concerns cited accurately reflect those stated in the record. In addition, the description of the issues and concerns cited are indicative of the fact that the opposition's property is immediate adjacent to the subject site.
- b. The record does not contain written authorization for the opposition to represent the owners of the properties located at 510, 512, 518, and 520 G Street, N.E.
- c. The Board acknowledges that the record contains a letter addressed to the opposition from Robert A. Schwartz, Architect, setting forth his opinion of the impacts of the proposed garage. However, the Board did not confer "expert" status on the written testimony of the architect because the letter was not addressed to the Board; the architect was not present at the public hearing and, therefore, was not subject to cross-examination; and, the opinions set forth in the letter were restricted to the original proposal and were therefore, not applicable to the revised plans requested by the Board.
- d. The record does not contain a written response from the opposition with respect to the revised plans submitted to the record by the applicant on April 23, 1992 with service on all parties.

With respect to the motion for rehearing, the Board finds that the purported evidence of further opposition to the application from neighboring property owners is insufficient to warrant a

BZA APPLICATION NO. 15634
PAGE NO. 3

rehearing of the application in that there is no indication that the basis for the purported additional opposition is different than that already considered and addressed by the Board.

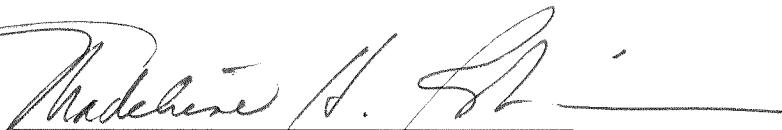
Based on the foregoing, the Board concludes that its decision was based on the evidence of record and, further, that it made no errors of law with respect to the merits of the application. The Board further concludes that the opposition has proffered no new evidence of a material nature which would alter or reinforce the evidence previously submitted by the opposition nor has the opposition proffered the likelihood of any evidence which could not reasonably have been presented at the public hearing. Accordingly it is hereby ORDERED that the motion for RECONSIDERATION and for REHEARING is DENIED.

DECISION DATE: January 6, 1993

VOTE: 4-0 (Sheri M. Pruitt, Carrie L. Thornhill, Angel F. Clarens and Paula L. Jewell to deny; Maybelle Taylor Bennett not voting, not having participated in the decision.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: FEB 2 1993

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

15634Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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BZA APPLICATION NO. 15634

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on FEB 2 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jeri Berc
516 G Street, N.E.
Washington, D.C. 20002

Mary E. Stansel
514 G Street, N.E.
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Terry H. Brooks
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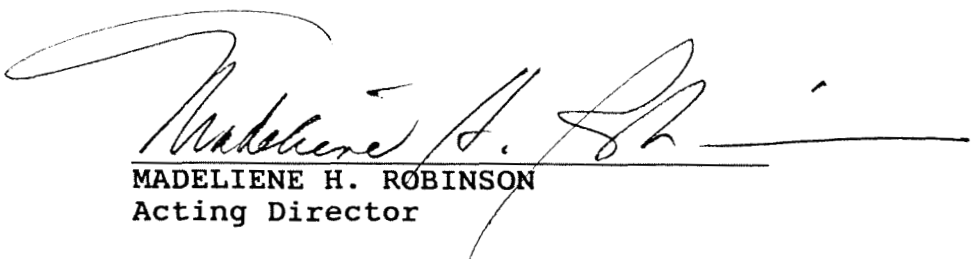
Curtis E. Franks
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Chairperson
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MADELIENE H. ROBINSON
Acting Director

DATE: FEB 2 1993

15634Att/bhs